

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

)	
United States of America, <i>ex rel</i>)	
Gary Cressman)	
Plaintiff)	CIVIL ACTION NO. 13-CV-5693(NIQA)
)	
v.)	
)	Qui Tam Action
Solid Waste Services, Inc., t/d/b/a)	JURY TRIAL DEMANDED
J.P. Mascaro & Sons,)	
Defendant)	

**RELATOR, GARY CRESSMAN's,
INITIAL RULE 26 DISCLOSURES**

COMES NOW, Relator, Gary Cressman, and hereby files his Initial Rule 26

Disclosures:

... (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(a) Gary Cressman
743 Oakpark Road
Hatfield, PA
1.267.694.3905

Subject: Mr. Cressman, who is the Relator, has information of the frequency of the Defendant's illegal and unlawful disposal of leached water into the environment of the Souderton, PA transfer station owned by Defendant and managed by Defendant's former General Manager. Relator also has information as to the conditions and circumstances under which leachate was illegally and unlawfully disposed and which conditions and circumstances will show a deliberate attempt at

concealment of the act.

- (b) Benjamin Gay
129 W. Sharpnack Street
Philadelphia, PA 19131
1.267.

Subject: Mr. Gay, has information of the frequency of the Defendant's disposal of leached water into the environment of the Souderton, PA transfer station and the circumstances under which leachate was disposed. Mr. Gay has information concerning possible attempts by the Defendant to conceal its disposal practices through the use of work release inmates from Montgomery County Prison

- (c) Dymtro "Sonny" Macelak
2007 Old Orchard Rd.
Norristown, PA 19403

Subject: Mr. Macelak is a former employee of Defendant and former General Manager of Defendant's Souderton, PA transfer facility/station. Mr. Macelak is a principal actor in the illegal and unlawful disposal of leached water into the environment of the Souderton, PA transfer station. Mr. Macelak, as noted in the Complaint, is related by marriage to the Defendant, family-owned sanitation business. Mr. Macleak will be called as a hostile witness based on his demonstrated loyalty to the Defendant, to testify concerning the business reasons for the illegal and unlawful disposal of leached water during his tenure as General Manager.

- (d) Mark F. Bowe
4015 Pilgrim Rd.
Plymouth Meeting, PA 19403

Subject: Mr. Bowe is a former employee of Defendant who was the Maintenance Manager and worked under the direct supervision of

Mr. Macelak. Mr. Bowe is a principal actor in the disposal of leached water into the environment of the Souderton, PA transfer station based on his knowledge and direction from Mr. Macelak.. Mr. Bowe directly performed the acts of illegal discharge and also supervised and solicited inmates from Montgomery County Prison to perform concealment of evidence of leached water as part of a pattern of labor by these person. Mr. Bowe is important in testifying as to how long the procedure was in place, the efforts to conceal the disposal, and who among the corporate officers of the Defendant were aware or should have been aware of the practice.

- (e) Unnamed Work Release Inmates
c/o Montgomery County Correctional Facility
60 Eagleville Rd.
Eagleville, PA 19403
1.610. 635.7100

Subject: The Defendant, through its former General Manager, Dymtro “Sonny” Macelak, regular engaged the use of certain, unidentified, work release inmates to perform services alleged to conceal and dispose of the illegally and unlawfully discharged, leached water at the Souderton, PA facility. Contact with these persons will have to take place in accordance with information known and held by Defendant regarding the contact person at the Montgomery County Correctional Facility and the records of work release inmate labor used by Defendant.

- (f) Acqua Wastewater Management, Inc.
60 Schoolhouse Rd.
Souderton, PA 19403
1.215.799.2200

Subject: Acqua Wastewater Management, Inc., is a national company that is believed to have held a contract with Defendant for the transporation and removal of leached water from Defendant’s, Souderton, PA transfer station. It is believed that the company will have relevant and material information concerning the volumes and frequency of its disposal services for the Defendant.

(g) Benjamin "Poppy" Mascaro
c/o Defendant
Souderton, PA 19403

Subject: It is believed that Mr. Mascaro will have relevant and material information concerning the knowledge of the activities of Defendant's, former General Manager's, treatment of leached water at the Souderton, PA transfer facility.

. . . (ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

- (a) Video stream - Relator, Gary Cressman, can identify a video stream of the actual instance(s) of the illegal discharge of leached water at Defendant's Souderton, PA. The video stream is subject to forensic discovery based on the use of a telephone to record the event(s). Counsel for the Relator has interviewed several forensic experts who must be engaged by counsel to retrieve the data and transfer the data in a form or medium capable of presentation at trial and to the Defendant.
- (b) Video stream - Benjamin Gay can identify a video stream of the actual instance(s) of the illegal discharge of leached water at Defendant's Souderton, PA. The video stream is subject to forensic discovery based on the use of a telephone to record the event(s). Counsel for the Relator has interviewed several forensic experts who must be engaged by counsel to retrieve the data and transfer the data in a form or medium capable of presentation at trial and to the Defendant.
- (c) Record of dates of labor used by Unnamed Work Release Inmates, Montgomery County Correction Facility - The officials of the Montgomery County Correction Facility have the recorded dates on which they provided work-release inmates out of their custody into the custody of Defendant.

These work release inmates were directed to work in the Souderton, PA facility cleaning and concealing, illegally and unlawfully discharged leached water.

. . . (iii) a computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(a) Category of Damages

(1) Statutory Damages

If a defendant is found guilty of violating one of the seven False Claim Act (FCA) subsections, 31 U.S.C. § 3729 (a) provides that the court shall assess “three times the amount of damages which the government sustains because of the act of that person...”

Pursuant to, US ex rel. Sanders v. Amer. Life Ins. Co., 545 F.3d 256 (3d Cir. 2008), a party can be subject to FCA liability even where the government suffers no monetary injury. Recovery under the FCA is not dependent upon the government's sustaining monetary damages.

Relator computes damages as follows:

COMPUTATION OF DAMAGES

Relator computes the liability of Defendant pursuant to 31 USC § 3729(a) and 28 C.F.R. § 85.3(a)(9) as follows:

Assumptions:

1. Mr. Macelak was General Manager, Souderton from FY 2008-2013
2. DUNS # 058998311 is for Solid Waste Services, Inc.

ALL FIGURES FROM: **USASPending.gov website – DUNS # 058998311**

	<u>Contracts</u>	<u>Amounts Paid</u>
FY 2013 7 Transactions ¹	7	\$87,802
FY 2012 8 Transactions	8	\$304,559
FY 2011 20 Transactions	20	\$222,148
FY 2010 20 Transactions	20	\$277,436
FY 2009 16 Transactions	16	\$159,154
FY 2008 16 Transactions	16	\$220,760
TOTAL	87	- \$ 1,271,859
TREBLE DAMAGES		- \$ 3,815,577
Additional Penalty	(\$11,000 x 87)	- \$ 957,000
TOTAL STATUTORY DAMAGES		\$ 4,772,577

¹ Transactions equate to contracts.

(2) Disclosure of Expert Testimony.

(A) In General. In addition to the disclosures required by Rule 26(a)(1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705.

- (a) Charlie Balot
CEO
OnlineSecurity
3000 S. Robertson Blvd.
Suite 288
Los Angeles, CA 90034
310-815-8855 Ext: 212

The services of Mr. Balot are being considered for expert testimony in the nature of the forensic recovery of video data an e-mail account of counsel for Plaintiff.

- (b) Expert Witness, Leachate Disposal
See Attachment

The services of Witness 731659 are being considered for expert testimony in the nature of the proper disposal requirements of leached water from solid waste facilities and the economic costs related to same.

- (c) Public Contracting Institute (PCI)
The Nash and Cibinic Center
(Conveniently located off Farragut West Metro)
1725 I (Eye) Street NW, Suite 100
Washington DC 20006
202.775.7240

The services of a witness that is referred to the Plaintiff by the PCI is being considered for expert testimony in the nature of the proper interpretation of all contracts with the federal government.

(B) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;

(ii) the facts or data considered by the witness in forming them;

(iii) any exhibits that will be used to summarize or support them;

(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and

(vi) a statement of the compensation to be paid for the study and testimony in the case.

A written report of any Plaintiff-sponsored expert will be provided in accordance with the Case Management directives of the district court.

(C) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

(i) the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and

(ii) a summary of the facts and opinions to which the witness is expected to testify.

The above-cited witness will be identified in accordance with the Federal Rules of Civil Procedure.

Date February 19, 2016

By: 

Alphonso Arnold, Jr.

No. 29704

109 Locust Street, 1st Floor

Harrisburg, PA 17101

1.717.798.8004/ 1.717.319.9015

AlphonsoArnoldJrLaw@mail.com

ATTACHMENT



Expert 731659

[Request Expert](#)

**Expert in Landfill
optimization of air-space,
leachate and gas
management,
environmental
assessment/remediation**

Illinois
(IL)
USA

Available for your Consulting and Expert
Witness Needs

[Education](#)

[Work History](#)

[Consulting Services](#)

[Expert Witness](#)

Summary of Expertise:

Expert provides over 40 years experience involved in compliance, permitting, and assessing environmental impacts of landfills, wastewater treatment facilities and contaminated sites. He previously worked 23 years for a large waste company and most recently as the Director of New Technology. In this role, Expert was responsible for developing innovative methods for environmental assessment, remediation, and proactive management, operation and design of active and closed landfills. He developed and managed over 30 bioreactor landfill demonstrations and helped in the permitting and conceptual design of a bioreactor working with the state of Kentucky on a cooperative research basis. Expert implemented innovative remedial technologies for wastewater, leachate, surface water, soil and groundwater for both regional and specific Superfund sites, hazardous waste landfills, waste water ponds, and solid waste sites for groundwater, surface water, landfill gas, and vapor control. He also developed innovative monitoring and assessment techniques for fingerprinting sources of contaminants in solids, aqueous and gaseous phases. He is an expert in demonstration landfill gas to groundwater contamination for hazardous and solid waste sites. Expert also has studied affects on groundwater and vadose zone contaminant impacts before and after capping of landfills and remedial properties. He has demonstrated alternate technologies for waste management and also for leachate and wastewater treatment, such as vertical wetlands and innovative treatment systems, to manage leachate and contaminated groundwater. He also has evaluated alternate waste management technologies for energy production including pyrolysis, gasification, plasma arc, and other treatment/conversion methods. Expert is a recognized expert in groundwater quality, conventional and alternate landfill caps, bioreactor landfills, landfill gas, hydrogeology, innovative wastewater and leachate treatment, surface water quality management, and alternative waste management technologies. He has lead numerous State and Federal workshops for groundwater monitoring and assessment techniques, bioreactors, and innovative technologies for leachate and groundwater remediation.

Listed with other top experts in:

- [biological industrial wastewater treatment](#)
- [environmental engineering](#)
- [environmental impact assessment](#)
- [groundwater](#)
- [groundwater contamination](#)
- [groundwater quality standard](#)
- [groundwater remediation](#)
- [groundwater treatment](#)
- [hazardous waste landfill](#)
- [hazardous waste remediation](#)
- [hazardous waste removal operation](#)
- [hazardous waste treatment](#)
- [hazardous-waste disposal](#)
- [hydrogeology](#)
- [industrial wastewater treatment](#)
- [industrial wastewater treatment facility](#)
- [landfill](#)
- [landfill-leachate disposal equipment](#)
- [soil remediation](#)
- [surface water](#)
- [waste](#)

- [waste disposal](#)
- [waste management](#)
- [wastewater](#)
- [wastewater system](#)
- [wastewater treatment engineering](#)
- [wastewater treatment facility](#)
- [bioreactor](#)
- [bioreactor design](#)

[Show Secondary and Basic Areas of Expertise](#)

Localities:

Expert may consult nationally and internationally, and is also local to the following cities: Chicago, Illinois; Rockford, Illinois; Aurora, Illinois; Naperville, Illinois; Joliet, Illinois; Elgin, Illinois; South Bend, Indiana; Gary, Indiana; Milwaukee, Wisconsin; and Kenosha, Wisconsin.

Education:

[Request Expert](#) [TOP](#)

Year	Degree	Subject	Institution
1973	MS	Environmental Engineering	University of Illinois - Urbana
1971	BS	Biology/Chemistry	University of Illinois-Urbana

Work History:

[Request Expert](#) [TOP](#)

Years	Employer	Department	Title	Responsibilities
2003 to 2013	Alan Environmental, LLC		President/owner	Waste Industry Consulting including conceptual design and operation of landfill gas, leachate, and bioreactor management. Expert witness in landfill contamination and environmental impacts, conduct hydrogeologic and groundwater assessments and remediation. Renewable energy technology options and evaluation of new technologies waste and general industry
1980 to 2003	Waste Management, Inc	Corporate	Director New Technologies	Manage compliance and environmental monitoring programs, evaluate and research new technologies for environmental remediation, monitoring and landfill optimization thru bioreactor landfill design and operations. Review and comment on new environmental regulations

Consulting Services:

[Request Expert](#) [TOP](#)

Recent Client Requests:

- Expert for consulting on for maintaining EPA compliance.
- Expert in hazardous waste landfilling for consulting on Stabilization of mixed nitrate-



sulphate-chloride-selenate salts.

Click the green button above to contact Expert for a free initial screening call regarding your expert consulting needs. Expert is available for consulting to corporate, legal and government clients. Remember, your initial screening call to speak with Expert is free.

Expert Witness:

[Request Expert](#)  [TOP](#)

Expert Witness Experience Summary:

Expert witness and chief investigator for groundwater, surface water and gas/vapor contaminant source identification for litigation support for WM vs. City of Antioch \$600 million lawsuit regarding alleged contamination of the City's public water supply well; Expert witness and chief investigator for contaminant source identification for WM vs. confidential developer regarding landfill expansion permit and groundwater and surface water contamination before the Florida State Department of Environmental Quality Judicial Hearings; Expert witness and chief investigator for contaminant source identification for WM vs. confidential developer regarding landfill expansion permit and groundwater and surface water contamination before the Florida State Department of Environmental Quality Judicial Hearings; Expert testimony and chief investigator for groundwater, surface water and gas/vapor contaminant source identification for WM vs. County of Hillsborough, FL regarding County's Superfund site and WM's landfill; Expert court testimony for Grandview Building Supply vs. OEPA regarding C&D landfill contamination/removal order;

Click the green button above to contact Expert for a free initial screening call regarding expert testimony, litigation consulting and support, forensic services, or any related expert witness services. A few litigation needs include product liability, personal injury, economic loss, intellectual property (patent, trademark, trade secret, copyright), and insurance matters. Remember, your initial screening call to speak with Expert is free.

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

)	
United States of America, <i>ex rel</i>)	
Gary Cressman)	
Plaintiff)	CIVIL ACTION NO. 13-CV-5693(NIQA)
)	
v.)	
)	Qui Tam Action
Solid Waste Services, Inc., t/d/b/a)	JURY TRIAL DEMANDED
J.P. Mascaro & Sons,)	


CERTIFICATE OF SERVICE

I, Alphonso Arnold, Jr., hereby certify that a true and correct copy of the foregoing Initial Disclosures Pursuant to Rule 26 was electronically mailed to the persons who appear on the electronic service list on the date listed below:

William F. Fox, Esquire
Jason T. Sabol, Esquire
2650 Audubon Road
Audubon, PA 19403

Susan R. Becker, Esq.
Gregory B. David, Esq.
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Date: February 19, 2016

By: 
Alphonso Arnold, Jr.
No. 29704
For Plaintiff